IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FOURTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 16405 of 2004

Between:

M/s. Blue Star Iron Scrap Mart,

Tarapet, Vijayawada, Krishna District,

Rep by its Proprietor, Mr. Liaikhath Ali Khan,

S/o. Late Mohammed Khan,

aged about 49 years, resident of Vijayawada.

..... PETITIONER

AND

1 M/s. Oil and Natural Gas Corporation Ltd. represented by its Managing

Director, Rajahmundry, E.G. District.
2 M/s. M.S.T.C. Limited, Subbaramireddy Complex, 3rd Floor, 30-15-76,

Dabagardens, Visakhapatnam, represented by its Managing Director

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or direction or a Writ more particularly one in the nature of Mandamus declaring impugned proceedings RA/MM/ Disposal 2002-03 dt. 5-8-2004 as illegal, arbitrary and discriminating the petitioner and consequently directing the respondents to allow the petitioner to lift the balance scrap pursuant to the tender acceptance dt. 22-1-2003 of the 2nd respondent.

Counsel for the Petitioner:MR.VISSA VENKATESWARA RAO
Counsel for the Respondent No.1: MR.K.VENKATA RAO
Counsel for the Respondent No.2: MR.K.SAI SREERAMA MURTHY

The Court at the stage of admission made the following O R D E R:

The petitioner entered into a contract with the respondents and for the first lot consisting of 5th Drill Pipes condemned used and unserviceable-4585 Pcs with an approximate weight of 1300 Metric Tonnes, he was declared as the highest bidder. When the petitioner failed to pay the instalment amounts towards 2nd, 3rd and 4th lots, each, out of the total sale consideration within the agreed due dates and committed default in lifting the material, the respondents forfeited the security deposit of the petitioner as per the agreed terms and conditions. At that stage, the petitioner filed WP.No.12766 of 2003 for a Mandamus directing the respondents to allow the petitioner to lift the balance scrap pursuant to the tender acceptance letter dated 22-01-2003 of the second respondent after declaring the proceedings dated 25-06-2003 of the second respondent as arbitrary and illegal. The said writ petition was dismissed as withdrawn with liberty to the petitioner to claim refund of any amount paid, if not already refunded and to file appropriate writ petition, if so advised. Thereafter, the petitioner filed another WP.No.25411 of 2003 seeking the same relief as in WP.No.12766 of 2003. This Court in WPMP.No.32015 of 2003 and WVMP.Nos.554 and 1213 of 2004 directed the respondents to consider the representations made by the petitioner dated 25-03-2004, 14-07-2004 and 26-07-2004. In obedience to the said directions passed by this Court, the first respondent by the impugned order dated 05-08-2004 has not accepted the explanation offered by the petitioner for his failure to deposit the 2nd and 3rd instalments before the due

dates and lift the material and accordingly, rejected the request to accept the balance sale consideration and informed that the contract stood cancelled long back and therefore, the question of permitting the petitioner to pay the balance amount and lift the material does not arise and accordingly, disposed of the said representations. In view of the same, the said writ petition was dismissed on 20-08-2004 with liberty to the petitioner to file fresh proceedings. Hence, the present writ petition is filed.

Admittedly, clause 14.0 in general terms and conditions of the tender contemplates that the disputes in regard to contracts shall be referred to the Sole Arbitrator. In view of the same, if there is any violation of the terms and conditions of the contract, it is open for the parties either to move the Sole Arbitrator as provided under the contract or approach the competent civil court as the case may be. It is well settled that the contract is governed by the provisions of the Contract Act and the disputes arising out of contractual or commercial activities of statutory bodies are not amenable under the public law remedy and any disputes arising from such activities must be settled according to the principles of law of contract and therefore, the interpretation and implementation of a clause in a contract cannot be a subject matter of this writ petition.

In view of the same, I see no grounds to entertain the present writ petition and the same is liable to be dismissed.

The writ petition is accordingly dismissed. No costs.

14th SEPTEMBER, 2004.

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To

1 The Managing Director,M/s. Oil and Natural Gas Corporation Ltd.

Rajahmundry, E.G. District.
2 The Managing Director, M/s. M.S.T.C. Limited, Subbaramireddy Complex, 3rd Floor, 30-15-76, Dabagardens, Visakhapatnam.

3 Two C.D copies